

**DISTRIBUTED**

091916

**Valerie Termini, Executive Director**  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
(916) 653-4899  
[www.fgc.ca.gov](http://www.fgc.ca.gov)

STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

## Fish and Game Commission



*Wildlife Heritage and Conservation  
Since 1870*

**Commissioners**  
**Eric Sklar**, President  
Saint Helena  
**Jacque Hostler-Carmesin**, Vice President  
McKinleyville  
**Anthony C. Williams**, Member  
Huntington Beach  
**Russell Burns**, Member  
Napa  
**Peter Silva**, Member  
Chula Vista

September 9, 2016

This is to provide you with a copy of the notice of proposed regulatory action relative to Amending Section 670, Title 14, California Code of Regulations, relating to Falconry regulations, which are published in the California Regulatory Notice Register on September 9, 2016.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Additional information and all associated documents may be found on the Fish and Game Commission website at <http://www.fgc.ca.gov/regulations/2016/index.aspx>.

**Carie Battistone, Senior Environmental Scientist, Department of Fish and Wildlife, phone (916) 445-3615, has been designated to respond to questions on the substance of the proposed regulations.**

Sincerely,



Jon D. Snellstrom  
Associate Governmental Program Analyst

Attachment

**TITLE 14. Fish and Game Commission**  
**Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections : 200, 202, 203, 355, 356, 395, 396, 398, 710.5, 710.7, 713, 1050, 1054, 1530, 1583, 1802, 3007, 3031, 3039, 3503, 3503.5, 3511, 3513, 3800, 3801.6, 3950, 4150, and 10500 of the Fish and Game Code and to implement, interpret or make specific Sections 395, 396, 713, 1050, 3007, 3031, 3503, 3503.5, 3511, 3513, and 3801.6 of said Code, proposes to amend Section 670, Title 14, California Code of Regulations, relating to Falconry Regulations

**Informative Digest/Policy Statement Overview – Inland Fisheries**

Amend Sections 670, Falconry, Title 14, California Code of Regulations (CCR).

The falconry regulations were last amended in 2013 to conform to federal guidelines which required states to adopt their own rules governing the sport. At that time it was understood by the Commission, falconers, and the public that the new California regulations would require updating and amendment to bring the regulations more in line with the current practice of falconry in California.

Numerous minor edits, renumbering, and clarifying changes are proposed; the more substantive changes include:

- Revising language to be more consistent with regulatory language standards (e.g., using lower-case for all headers, renumbering subsections, appropriate references for websites, replacing “regulatory year” with “license year,” reference to expired licenses, references to federal regulations).
- Allowing falconers to complete reports using the Department’s online reporting system found on the Department website at [wildlife.ca.gov](http://wildlife.ca.gov). Accordingly, no reporting to the USFWS is required and all references to the federal form 3-186A are removed.
- Clarifying what documentation is required to be carried when engaged in falconry activities.
- Amending the definitions (e.g., falconry, hacking, imping) to more accurately represent the activity.
- Improving instructions to falconers for procedures to avoid take of unauthorized wildlife and instructions to follow in the event that inadvertent take does occur, including fully protected species, and adopting “let it lay” language for non-protected species (meaning that if take occurs to let the raptor feed on the prey) and reporting requirements.
- Clarifying that a falconry license does not authorize the take of threatened or endangered species, candidate species or fully protected species.
- Clarifying licensee application procedures for resident, nonresident, tribal, and non-US citizen falconers.
- Adding language specifying that a tribal member with a valid falconry license issued from that member’s tribe will be treated in the same manner as a nonresident licensed falconer.
- Clarifying that a tribal member that does not have a license must apply for a California license to practice falconry outside the jurisdiction of the tribe.
- Clarifying that the exam fee is charged for each multiple examination to recover the Department’s reasonable costs.
- Adding an exam exemption for new resident falconers with a valid out-of-state falconry license.
- Clarifying when inspections are needed.
- Clarifying what is allowed and not allowed under an expired license, and what steps must be taken if a licensee wishes to continue to practice falconry.
- Adding terms for renewal, at the Department’s discretion, of a license where the licensee has been unlawfully in active practice without annual renewal and the payment of fees.

- Revising suspension and revocation clause to be more specific to the types of violations that would result in immediate action.
- Regarding written authorization required for certain activities, adding specifications that the authorization must be signed and dated with original signature.
- Identifying License and Revenue Branch as the point of contact for certain determinations, with the actual determination being made by Wildlife Branch in some instances.
- Clarifying the necessity of maintaining a continuous sponsorship of an apprentice; what period of time will be counted toward a total of 2 years sponsorship; and sponsor responsibility to assure that minimum qualifications have been met.
- Clarifying that falconers must maintain proper documentation of legal acquisition of birds and records retention is for 5 years only.
- Clarifying that take of northern goshawk outside of the Tahoe Basin does not have a limit.
- Adding language that identifies no need for a new inspection if the facilities shared by multiple falconers have passed a previous inspection.
- Clarifying when the administrative fee applies.
- Revising specifications for applying for the raptor capture drawing and obtaining a permit, including revision of deadline dates and times.
- Allowing falconers to remove bands or reband raptors under certain circumstances, if needed.
- Adding specific language allowing family members to watch raptors outside, but only if a specific age.
- Deleting the existing provision in 670 that raptors may be permanently transferred to a falconer from rehabilitation facilities. Section 679 provides for the permanent disposition from rehabilitation facilities of wildlife including birds.
- Clarifying that falconers may temporarily possess raptors from rehabilitation facilities for the purpose of conditioning for release back in to the wild.
- Adding text to clarify that non-native raptors or barred owls may not be released into the wild.
- Revising text regarding process and limitations for mounting raptor carcasses.
- Clarifying that unannounced inspections are applicable to falconry facilities.
- Revising language so that the Department will make a reasonable attempt to contact the licensee prior to conducting inspections.

### **Benefits of the Proposed Regulations**

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources under the jurisdiction and influence of the state for the benefit of all the citizens of the State. In addition, it is the policy of this state to promote the development of resource related recreational activities that serve in harmony with federal law respecting conservation of the living resources under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the management and maintenance of captive raptor populations to ensure their continued existence of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based regulations provides for the health and maintenance of sufficient populations raptors. The Commission additionally anticipates benefits to the captive breeding program as well as the management of the rehabilitation of raptors as needed. The proposed regulation changes are intended to provide increased health and maintenance to the State's falconry program from its recent transition for federal to states oversight. The Commission anticipates benefits to the environment by the sustainable management of California's resources.

The Commission further anticipates benefits to licensed falconers in the current practice of the sport in California through clarified regulations.

Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature

sees fit. The Legislature has delegated to the Commission the power to regulate the practice of falconry. No other State agency has the authority to promulgate such regulations. The Commission has searched the CCR for any regulations regarding falconry and has found no such regulation; therefore the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing State regulations.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Red Lion Inn, 1929 4<sup>th</sup> Street, Eureka, California, on Thursday, October 20, 2016 at 8:00 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Hilton Garden Inn San Diego Mission Valley/Stadium, 3805 Murphy Canyon Road, San Diego, California, on December 8, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on November 17, 2016 at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on December 2, 2016. All comments must be received no later than December 8, 2016, at the hearing in San Diego, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

#### **Availability of Documents**

The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Jon Snellstrom at the preceding address or phone number. **Carie Battistone, Senior Environmental Scientist, Department of Fish and Wildlife, phone (916) 445-3615**, has been designated to respond to questions on the substance of the proposed Falconry regulations. Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through our website at <http://www.fgc.ca.gov>.

#### **Availability of Modified Text**

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### **Impact of Regulatory Action/Results of the Economic Impact Assessment**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The Commission does not anticipate significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations amend the existing rules for the sport of falconry, primarily for recreational purposes.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any significant impacts on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses. Hunting and falconry is an outdoor activity that can provide several benefits for individuals who partake in it and for the environment benefitting the health and welfare of California residents. The proposed regulations affect a limited number of falconers in California and therefore are unlikely to create or eliminate jobs, or result in the expansion or elimination of existing businesses.

- (c) Cost Impacts on a Representative Private Person or Business:

The proposed amendments do not impose any additional fees or costs to private persons involved in the sport of falconry.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

- (e) Nondiscretionary Costs/Savings to Local Agencies: None

- (f) Programs Mandated on Local Agencies or School Districts: None

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None

- (h) Effect on Housing Costs: None

### **Effect on Small Business**

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

### **Consideration of Alternatives**

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Valerie Termini  
Executive Director

Dated: August 30, 2016